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JUDGE COAR

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Judge Moran prevented his appearance before this Court. Rather, plaintiff's counsel only wishes to assure the Court that the failure to appear for the status hearing was not due to an unwillingness, or failure, to appear in the courthouse. Likewise, the failure to appear before this Court was not the result of plaintiff's counsel ignoring this case as he had exchanged voice mail messages with defense counsel in an attempt to agree to a discovery schedule in advance of the Rule 16(b) conference. Plaintiff's last voice mail message was left for defense counsel on Monday February 18, 2008. Apparently, defense counsel was not working that day.

5. Plaintiff's counsel apologizes to the Court for this inadvertent error, and while it certainly should not have happened it was completely unintentional.

6. Plaintiff's counsel respectfully requests that the Court grant plaintiff's motion to vacate the dismissal for want of prosecution as granting such a motion will not cause any undue prejudice to defendants. However, denying such a motion would result in extreme prejudice to plaintiff in as much as it would result in him being denied an opportunity to have his claims decided on their merits.

WHEREFORE, plaintiff respectfully requests that this honorable Court grant plaintiff's motion to vacate the dismissal for want of prosecution entered on February 19, 2008.

Respectfully submitted,

BY: /s/Garrett Browne
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